

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriately defined status identifier.

Claims 1 and 20 have been amended. No claims have been canceled or added. After amending the claims as set forth above, claims 1-10 and 20-25 are now pending in this application.

I. Information Disclosure Statement

In compliance with 37 CFR § 1.56, Applicant believes that it has submitted concise explanations of the relevance of non-English language documents by virtue of submission of English language abstracts. See MPEP 609.04 (“The requirement for a concise explanation of relevance is limited to information that is not in the English language. ... Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation.”) Accordingly, the information disclosure statement is believed to be proper and in compliance with 37 CFR § 1.56.

II. Claim Rejections – 35 USC § 112

The Examiner rejected claims 1-10 and 20-25 under 35 USC § 112, ¶1 on the basis that the “[s]pecification never talks about what exactly is heightened sensitivity and how it is related to sub-loan level risk. Applicant respectfully submits that this limitation is supported by the specification. At various locations, the specification discusses financial instruments may be created that have heightened sensitivity to different types of sub-loan level risk. See e.g., Sections [0031] to [0038]. For example, at Section [0037] the specification states:

[0037] As another example, financial instruments may be created that are based on special loan programs. For example, for borrowers having marginal credit, a loan program may reward such borrowers with a reduced interest rate after such borrowers have made a certain number loan payments in a timely manner (e.g., a reduction from 7.5% to 6.5%). The potential that the borrower will make timely payments and reduce the cash flows associated with their loan represents a risk that may be sold to a third party investor. For example, for a group of loans consisting of such loans, a first financial instrument may be created that is backed by the underlying 6.5% interest rate, and a second financial instrument may be created that is backed by the additional 1% portion of the interest rate that is subject to elimination after the loan payments are made in a timely manner. The first financial instrument therefore would be relatively insensitive to the risk associated with the reward program, whereas the second financial instrument would have an enhanced sensitivity to such risk. Depending on the portfolio needs of a particular investor, the second financial instrument may fit within the investor's portfolio, for example, by serving as a hedge against other risks.

(Emphasis added.) In the example described in Section [0037], a financial instrument is created that is backed by a 1% portion (a sub-loan level cash flow) of an interest rate paid by the borrower that is subject to elimination after the loan payments are made in a timely manner for a period of time (a sub-loan level risk). Thus, as compared to other financial instruments which are not backed by this cash flow, this financial instrument therefore has a heightened sensitivity to the risk of the loan payments being made in a timely manner.

The Examiner rejected claims 1-10 and 20-25 under 35 USC § 112, ¶2 on the basis that the term "like ones" is unclear. Applicant respectfully submits that this limitation is clear when considered in view of the specification. For example, in the above example described in Section [0037], the "like ones" of the sub-loan level cash flows are the sub-loan level cash flows associated with the additional 1% portion of the interest rate that is subject to elimination after the loan payments are made in a timely manner. As another example, the specification states:

Preferably, such cash flows are aggregated with like cash flows from other loans in creating the financial asset. For example, a financial instrument may be created that is backed only by one or more specific types of borrower paid fees, and not by principal and interest.

(Emphasis added.) Applicant notes that the Examiner's comment that the claims 1 and 20 are "verbose and hard to understand." Applicant assumes that this is just a general comment and does not reflect concerns that the Examiner has in connection with compliance with 35 USC § 112 (i.e., no specific rejections are set forth in this regard). Also, as a general proposition, Applicant respectfully submits that compliance with compliance with 35 USC § 112 is not determined by the number of words in a claim. However, in order to expedite allowance of the application, Applicant has implemented amendments to claims 1 and 20 with a view to reducing the number of words in the claims.

The Examiner rejected claims 1-10 and 20-25 under 35 USC § 112, ¶2 on the basis that the phrase "heightened sensitivity" is vague and indefinite. Applicant respectfully submits that this limitation was clear and definite as previously set forth in claim 1. Nevertheless, in order to expedite allowance of the application, Applicant has amended claim 1 to set forth a basis for comparison. Specifically, claim 1 now recites:

and the sub-combination of sub-loan level cash flows exhibiting heightened sensitivity to at least one of the different types of sub-loan level risk relative to the sensitivity exhibited by the plurality of home mortgage loans as a whole.

A similar amendment has been made in claim 20. Particularly in view of the fact that a basis for evaluating the "heightened" limitation is now set forth in claim 1 itself, Applicant respectfully submits that this limitation is clear and definite. Again, responsive to the Examiner's suggestion, Applicant has reduced the number of words in claims 1 and 20.

Accordingly, withdrawal of the rejections under 35 USC § 112 is respectfully requested.

III. Claim Rejections – 35 USC § 101

The Examiner rejected claim 1 under 35 USC § 101 on the basis that the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner stated that "claim 1 can be carried out by mental steps."

Applicant respectfully submits that claim 1 is in compliance with 35 USC § 101 at least because claim 1 includes a “storing” step as follows:

storing and tracking accounting data for the financial assets based at least in part on the accounting rules, wherein the accounting data is stored in a data storage system

Applicant respectfully submits that the step of storing data for the financial assets in a data storage system renders claim 1 compliant with 35 USC § 101.¹ Accordingly, withdrawal of the rejection under 35 USC § 101 is respectfully requested.

IV. Double Patenting

The Examiner rejected claims 1-10 and 20-25 under the judicially created doctrine of double-patenting. Responsive to the double-patenting rejection, Applicant submits herewith a terminal disclaimer. Accordingly, withdrawal of the double-patenting rejection is respectfully requested.

V. Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to

¹ Applicant also notes that the dependent claims include various steps relating to storing and displaying various types of information. Since only claim 1 was rejected under 35 USC § 101, Applicant assumes that the Examiner considers the dependent claims to be compliant with 35 USC § 101.

Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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